

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Attorney Docket No. 2006_0786A
Tatsuo ITOH et al. : **Confirmation No. 1507**
Serial No. 10/595,995 : Group Art Unit 2627
Filed May 24, 2006 : Examiner Thuy N. Pardo
A CONFOCAL OPTICAL SYSTEM : **Mail Stop: ISSUE FEE**
APERTURE DETECTOR THAT
MEASURES A LIGHT QUANTITY
BALANCE OF LIGHT RECEIVED TO
DETECT A POSITION DISPLACEMENT,
AND A CONFOCAL OPTICAL SYSTEM
APERTURE POSITION CONTROLLER, AN
OPTICAL HEAD AND A POSITION
DETECTING METHOD PERFORMING THE
SAME (As Amended)

APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants kindly request reconsideration of the estimated Patent Term Adjustment of 455 days for the following reasons.

Initially, the Applicants note that the "Patent Term Adjustments" section of PAIR indicates that the § 371 completion date is October 21, 2006. This date of October 21, 2006 is incorrect. Specifically, because the Patent Term Adjustment relies on this incorrect § 371 completion date of October 21, 2006 to determine the Patent Term Adjustment, the determined Patent Term Adjustment is incorrect.

The Applicants submit that the § 371 completion date is May 24, 2006, rather than October 21, 2006. Further, Applicants believe that this error occurred because the § 371 completion date is normally determined by adding 30 months to the priority date (i.e., April 21, 2004), which is October 21, 2006. However, the original transmittal form submitted to the USPTO on May 24, 2006 clearly requests the national examination procedures to begin in order to obtain the earlier § 371 completion date.

In other words, the § 371 completion date should be May 24, 2006 rather than October 21, 2006, because the Applicants clearly requested the national examination procedures to begin immediately. A copy of the transmittal requesting the national examination procedures to begin in order to obtain the earlier § 371 completion date is included herewith.

As a result, the Applicants request the Patent Term Adjustment to be further adjusted by taking into account the time period between May 24, 2006 (the actual § 371 completion date) and October 21, 2006 (the § 371 completion date incorrectly used to determine the Patent Term Adjustment) . Specifically, the Patent Term Adjustment should be extended by at least another 151 days, to 606 days.

As required by 37 CFR 1.704, the Applicants submit that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application.

In view of the above, the Applicants kindly request that the Office of Patent Legal Administration reconsider the Patent Term Adjustment of 455 days to be, at least, 606 days.

Respectfully submitted,

Tatsuo ITOH et al.

/Andrew L. Dunlap/

By 2009.10.21 16:26:05 -04'00'

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October 21, 2009

ATTORNEY DOCKET NUMBER
2006_0786ATRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. §371U.S. APPLICATION NO.
(if known, see 37 CFR 1.5)
NEWInternational Application No.
PCT/JP2005/007541International Filing Date
April 20, 2005Priority Date Claimed
April 21, 2004**Title of Invention**

CONFOCAL OPTICAL SYSTEM APERTURE POSITION DETECTOR, CONFOCAL OPTICAL SYSTEM APERTURE POSITION CONTROLLER, OPTICAL HEAD, OPTICAL INFORMATION PROCESSOR, AND CONFOCAL OPTICAL SYSTEM APERTURE POSITION DETECTING METHOD

Applicant(s) For DO/EO/US
Tatsuo ITOH et al.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. §371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. §371.
3. ☒ This express request to begin national examination procedures (35 U.S.C. §371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. §371(b) and PCT Articles 22 and 39(1).
4. ☐ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. §371(c)(2))
 - a. ☒ is transmitted herewith. - **ATTACHMENT A**
 - b. ☐ has been transmitted by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US)
6. ☒ A translation of the International Application into English (35 U.S.C. §371(c)(2)). - **ATTACHMENT B**
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. §371(c)(3)).
 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☐ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19.
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. §371(c)(4)). - **ATTACHMENT C**
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. §371(c)(5)).

Items 11. to 14. below concern other document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98. **ATTACHMENT D**
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A **FIRST** preliminary amendment. - **ATTACHMENT E**
☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
14. ☒ Other items or information:
 - Form PCT/IB/304 - **ATTACHMENT F**